

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 749

Introduced by Senator Morrell

February 27, 2015

An act to amend ~~Section 1596.65 of the Health and Safety Code, relating to child care. Sections 1726, 1747, and 1748 of, and to repeal and add Section 1747.1 of, the Health and Safety Code, relating to home health agencies.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 749, as amended, Morrell. ~~Child care: trustline registry. Home health agencies: hospice care.~~

Existing law provides for the licensure and regulation of home health agencies by the State Department of Public Health. Existing law requires all private or public organizations that provide or arrange for skilled nursing services to patients in the home to obtain a home health agency license.

Existing law, the California Hospice Licensure Act of 1990 (the act), provides for the licensure and regulation by the State Department of Public Health of persons or agencies that provide hospice services to persons, and the families of persons, who are experiencing the last phases of life due to a terminal disease. The act prohibits a person, political subdivision of the state, or other governmental agency from establishing or operating a hospice without first obtaining a license. Existing federal law also provides for the certification of hospice care for purposes of Medicare reimbursement. Existing law exempts a hospice program certified in accordance with federal Medicare hospice conditions of participation from the requirement to obtain a license

pursuant to the act, but provides that the program is subject to home health agency licensure unless it elects to apply for hospice licensure.

This bill instead would exempt a licensed home health agency from the requirement to obtain a license to provide hospice services if the hospice program is certified in accordance with federal Medicare hospice conditions of participation or is in the process of obtaining that certification. The bill would also make conforming changes.

~~Existing law requires the State Department of Social Services to establish a trustline registry for trustline providers who meet prescribed requirements. Existing law defines a trustline provider as a person 18 years of age or older who provides child care, supervision, or in-home educational or counseling services, and who is not required to be licensed as a child day care facility. Existing law prohibits an employment agency from making a referral of a child care provider unless the child care provider is a trustline applicant or registered child care provider.~~

~~This bill would make a technical, nonsubstantive change to a provision related to the trustline registry.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1726 of the Health and Safety Code is
2 amended to read:

3 1726. (a) ~~No~~A private or public organization, including, but
4 not limited to, any partnership, corporation, political subdivision
5 of the state, or other governmental agency within the state, shall
6 not provide, or arrange for the provision of, skilled nursing services
7 in the home in this state without first obtaining a home health
8 agency license.

9 (b) ~~No~~A private or public organization, including, but not
10 limited to, any partnership, corporation, or political subdivision
11 of the state, or other governmental agency within the state, shall
12 not do any of the following unless it is licensed under this chapter:

13 (1) Represent itself to be a home health agency by its name or
14 advertisement, soliciting, or any other presentments to the public,
15 or in the context of services within the scope of this chapter imply
16 that it is licensed to provide those services or to make any reference
17 to employee bonding in relation to those services.

1 (2) Use the words “home health agency,” “home health,”
2 “home-health,” “homehealth,” or “in-home health,” or any
3 combination of those terms, within its name.

4 (3) Use the words “skilled” or “nursing,” or any combination
5 of those terms within its name, to imply that it is licensed as a
6 home health agency to provide those services.

7 (c) In implementing the system of licensing for home health
8 agencies, the department shall distinguish between the functions
9 of a home health agency and the functions of an employment
10 agency or a licensed nurses’ registry pursuant to Title 2.91
11 (commencing with Section 1812.500) of Part 4 of Division 3 of
12 the Civil Code. An employment agency or a licensed nurses’
13 registry performing its functions as specified in Title 2.91
14 (commencing with Section 1812.500) of Part 4 of Division 3 of
15 the Civil Code is not required to secure a home health agency
16 license under subdivision (a), unless it is performing the functions
17 of a home health agency, as defined in this chapter. However,
18 subdivision (b) shall apply to an employment agency or a licensed
19 nurses’ registry that is not licensed under this chapter.

20 (d) ~~A hospice home health agency is not required to secure a~~
21 ~~home health agency license under subdivision (a). However,~~
22 ~~subdivision (b) shall apply to a hospice that is not licensed under~~
23 ~~this chapter. hospice license pursuant to Section 1747 in order to~~
24 ~~become certified to provide hospice care.~~

25 SEC. 2. Section 1747 of the Health and Safety Code is amended
26 to read:

27 1747. (a) ~~No~~A person, political subdivision of the state, or
28 ~~other governmental agency, that is not operating a hospice as of~~
29 ~~January 1, 1991, agency shall not establish or operate a hospice~~
30 ~~without first obtaining a license under this chapter. chapter, unless~~
31 ~~it is a licensed home health agency that is exempt pursuant to~~
32 ~~Section 1747.1.~~

33 (b) Any person, political subdivision of the state, or other
34 governmental agency, that is operating a hospice as of January 1,
35 1991, may continue to operate the hospice only under the following
36 conditions:

37 (1) The person, political subdivision of the state, or other
38 governmental agency shall apply to the state department for a
39 license under this chapter within 60 days after forms for the

1 application of licensure under this chapter are available from the
2 state department.

3 (2) The person, political subdivision of the state, or other
4 governmental agency shall cease calling or referring to itself as a
5 hospice upon the final decision of the director upholding the state
6 department's denial of an application for licensure under this
7 chapter.

8 (c) Nothing in this chapter shall preclude the ongoing use of
9 the title "volunteer hospice" by those organizations that satisfy all
10 of the following:

11 (1) They do not provide skilled nursing services.

12 (2) They do not charge patients or families for hospice services,
13 and they do not receive third-party insurance payments for services
14 rendered.

15 (3) They satisfy the disclosure requirements specified in
16 subdivision (c) of Section 1748.

17 (d) A small and rural hospice is exempt from the licensing
18 provisions of this chapter and the disclosure requirements of
19 subdivision (c) of Section 1748. A small and rural hospice may
20 provide skilled nursing services and may use the title "volunteer
21 hospice." ~~For~~

22 (e) For purposes of this chapter, a "small and rural hospice"
23 means a hospice that provides services to less than 50 patients per
24 year, does not charge for services, does not receive third-party
25 payment for services rendered, and is not located in a standard
26 metropolitan statistical area.

27 *SEC. 3. Section 1747.1 of the Health and Safety Code is*
28 *repealed.*

29 ~~1747.1. A hospice program certified in accordance with federal~~
30 ~~Medicare hospice conditions of participation shall be exempt from~~
31 ~~subdivision (a) of Section 1747, but shall be subject to Section~~
32 ~~1726 unless it elects to apply for hospice licensure. A hospice~~
33 ~~program that elects to apply for hospice licensure shall thereafter~~
34 ~~be subject to all the hospice licensure requirements set forth in this~~
35 ~~chapter.~~

36 *SEC. 4. Section 1747.1 is added to the Health and Safety Code,*
37 *to read:*

38 *1747.1. A home health agency licensed pursuant to Section*
39 *1726 is exempt from the requirement to obtain a license pursuant*
40 *to Section 1747 if the hospice program is certified in accordance*

1 *with federal Medicare hospice conditions of participation. A home*
2 *health agency may provide hospice care if the agency is in the*
3 *process of obtaining that certification. The hospice certification*
4 *process shall commence no later than the commencement of the*
5 *process for recertification as a home health agency, unless the*
6 *home health agency is otherwise exempt from the hospice*
7 *certification process.*

8 *SEC. 5. Section 1748 of the Health and Safety Code is amended*
9 *to read:*

10 1748. (a) Except as otherwise provided in subdivision ~~(b)~~ (a),
11 (b), or (d) of Section 1747, ~~no~~ a person, political subdivision of
12 the state, or other governmental agency shall *not* establish, conduct,
13 maintain, or represent itself as a hospice unless a license has been
14 issued under this chapter. Multiple locations need not obtain a
15 separate license. Multiple locations shall be listed on the license
16 of the parent agency and each shall pay a licensing fee in the
17 amount prescribed by subdivision (a) of Section 1750.

18 (b) Any person, political subdivision of the state, or other
19 governmental agency desiring a license to establish a hospice shall
20 file with the state department a verified application on a form
21 prescribed and furnished by the state department which contains
22 any information as may be required by the state department for
23 the proper administration and enforcement of this chapter.

24 (c) Any hospice that is not required to obtain a license under
25 this chapter shall disclose in all advertisements and information
26 provided to the public all of the following information:

27 (1) It is not required to be licensed and is not regulated by the
28 state department.

29 (2) Any complaint against the hospice should be directed to
30 the local district attorney and the state department.

31 (3) Any complaint against personnel licensed by a board or
32 committee within the Department of Consumer Affairs and
33 employed by the hospice should be directed to the respective board
34 or committee. Any complaint against a certified home health aide
35 or certified nurse assistant shall be directed to the state department.

36 The address and phone number of any state agency, board, or
37 committee which is responsible for addressing complaints shall
38 be provided by the hospice, upon request, to any patient of the
39 hospice.

1 ~~SECTION 1. Section 1596.65 of the Health and Safety Code~~
2 ~~is amended to read:~~
3 ~~1596.65. (a) An employment agency, as defined in Section~~
4 ~~1812.501 of the Civil Code, that refers a child care provider to~~
5 ~~parents or guardians who are not required to be a licensed child~~
6 ~~day care facility shall not make a placement of a child care provider~~
7 ~~who is not a trustline applicant or a registered child care provider.~~
8 ~~(b) A violation of this section is a misdemeanor and shall be~~
9 ~~punishable by a fine of one hundred dollars (\$100).~~